

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

ECONOMIC DEVELOPMENT COMMITTEE

Tuesday, December 2, 2003

Jack Bardon Student Life and Technology Center

United Tribes Technical College

Bismarck, North Dakota

Representative Rick Berg, Chairman, called the meeting to order at 9:05 a.m.

Members present: Representatives Rick Berg, Tracy Boe, Donald L. Clark, Mark A. Dosch, Mary Ekstrom, Nancy Johnson, Jim Kasper, George Keiser, Kenton Onstad, Ken Svedjan; Senators Dick Dever, Duaine C. Espeland, Tony S. Grindberg, John O. Syverson, Ryan M. Taylor

Members absent: Representatives Glen Froseth, Eugene Nicholas

Others present: See Appendix A

It was moved by Representative Keiser, seconded by Representative Svedjan, and carried on a voice vote that the minutes of the September 17, 2003, committee meeting be approved as distributed.

Chairman Berg called on Mr. J. Kurt Luger, Great Plains Indian Gaming Association, for comments regarding the meeting location. Mr. Luger welcomed the Economic Development Committee to the United Tribes Technical College. He said the college is experiencing record student enrollment. He invited committee members to participate in a luncheon prepared by the school's culinary program students. Chairman Berg thanked Mr. Luger for his assistance in arranging for the meeting to be held at United Tribes Technical College.

PRIMARY SECTOR BUSINESS STUDY

Chairman Berg reviewed 2003 House Bill No. 1504. He said the bill provides for the study of the state's business climate, including the creation of an index of key objective measurements that address the state's competitiveness with other states, the consideration of methods of creating business partnerships with North Dakota Indian tribes in order to increase primary sector business growth in this state, and active participation in the activities in the Primary Sector Business Congress. He said the activities of the committee during this meeting will be to focus on this primary sector business study.

Primary Sector Business Congress

Chairman Berg said under House Bill No. 1504, the committee is charged with creating a Primary Sector Business Congress. He said he envisions the

committee completing this charge by contracting with a professional to assist in holding meetings across the state at three or four locations over the next three or four months. He suggested holding these multiple meetings across the state in a less formal atmosphere than a traditional committee meeting and the meetings across the state would culminate with a Primary Sector Business Congress being held in May at the State Capitol.

In response to a question from Representative Kasper, Chairman Berg said Mr. Miles Friedman, National Association of State Development Agencies (NASDA), has submitted a proposal to assist the committee in performing the Primary Sector Business Congress portion of the committee's charge. Representative Berg distributed to committee members a copy of the written proposal submitted by NASDA, a copy of which is attached as Appendix B. He said Mr. Friedman was very active in assisting the 1997-98 Legislative Council's interim Commerce and Labor Committee in researching and preparing a bill draft that resulted in the creation of the Department of Commerce.

Senator Grindberg said NASDA has a good track record in providing services to this state. He said Mr. Friedman's ability to engage the appropriate parties and to work well with the parties and the subject matter has been well-tested.

Representative Keiser said he has two main concerns with the Primary Sector Business Congress activities. First, he said, the state has made several attempts in the past to do similar economic development projects and this effort needs to bring something new or a fresh approach to be effective. Second, he said, economic development in this state is related to the creation of great jobs. He said the state needs the solution to grow home-based businesses and this solution is not limited to primary sector businesses.

Representative Berg agreed with Representative Keiser and stated that the process he envisions would include meeting directly with existing North Dakota business people.

In response to a question from Representative Kasper regarding whether NASDA would assist in providing information regarding the economic development activities of other states, Representative Berg

said that based upon the NASDA proposal he would assume NASDA would provide some of these services regarding activities of other states. He said one benefit of using NASDA is that the organization has provided significant economic development services to other states and is also familiar with the organization of the Department of Commerce.

Senator Espegard stated the importance of receiving rural input in the process of gathering information for the Primary Sector Business Congress. He said it may be valuable to invite rural business people to some of the nonrural meetings. He said it is important for the Primary Sector Business Congress to receive comments from businesses throughout the entire state.

Representative Berg agreed that it is imperative to the success of the study to include participation of rural communities. He said he would work with Mr. Friedman in putting together meeting locations. He said that local developers would also be used to assist in putting together a list of individuals to invite to these meetings.

In response to a question from Representative Onstad, Representative Berg said he would expect to complete the meetings across the state over the course of the next four months and that at the end of the statewide meetings a Primary Sector Business Congress would be held in Bismarck. Following the Primary Sector Business Congress, he said, the committee will work on bill drafts based on the primary sector business study activities.

Senator Grindberg said the list of business people invited to participate in these meetings will be drawn from throughout the designated region.

Representative Keiser stressed the importance of inviting true entrepreneurs to these focus groups by looking beyond the traditional actors who typically participate in economic development activities.

In response to a question from Senator Taylor regarding whether other organizations have been considered to assist the committee in the Primary Sector Business Congress, Representative Berg said because the contract is for professional services, a formal request for proposal is not required. He said that although a formal request could have been made earlier in the process at this point requesting bids from other organizations may be too time-consuming.

Senator Dever asked whether representatives of the Greater North Dakota Association (GNDA) or Department of Commerce had opinions regarding the use of NASDA.

Mr. Dave Maclver, Growing North Dakota Association, said that the process of holding a series of meetings has been used by GNDA on a number of occasions with good results. He said that he is not personally familiar with NASDA but does agree that the committee does need to make the effort to bring the right players to the table and include businesses from across the entire state.

Ms. Linda Butts, Department of Commerce, said the department stopped renewing the department's NASDA membership approximately one year ago. She said NASDA is the only organization of its type which is specifically aimed toward state economic development agencies. She said NASDA services used by the department in the past have included meetings for research directors and meetings for directors. However, she said, in the most recent conversations the department has had with Mr. Friedman, the department learned that several of the NASDA researchers who worked for NASDA in 2001 when the department was created have moved on to different organizations. She said it is beneficial that NASDA is located in Washington, D.C. She said the Department of Commerce is reconsidering whether to rejoin NASDA.

It was moved by Representative Keiser and seconded by Senator Espegard that the committee request the Legislative Council chairman accept the National Association of State Development Agencies proposal for services.

Representative Svedjan said it is very important that NASDA specifically tailor the results of the process to North Dakota. He said the needs of North Dakota are unique and the committee should not receive a product from NASDA identical to the work done by NASDA in other states.

Senator Syverson said the \$25,000 price in the proposal seems nominal for services of this type. However, he said, he has developed an apprehension of consultants. He said he is concerned that consultants tailor their responses to what a committee wants to hear; whereas, it is important for the committee to hear both the positive and the negative information gathered in the course of conducting the Primary Sector Business Congress. He said he supports the proposal submitted by NASDA.

Representative Kasper said although he agrees with Senator Syverson, the value of the results of the Primary Business Sector Congress will in large part depend on the participation of the business community. He said the level of participation will make or break the usefulness of the results.

Representative Svedjan said in creating a list of business people and entrepreneurs to invite to these meetings it will be important to tap the nontraditional business people and entrepreneurs.

Representative Berg agreed that it will be important to include individuals who may not actually have a business but who may be trying to start a business. He said the list of people invited to the meetings will need to be a mixture of people representing mature businesses, businesses that have moved to North Dakota, and startup businesses. Additionally, he said, the \$25,000 pricetag seems to be a good value.

Senator Grindberg said he is comfortable with using the services offered by NASDA. Additionally,

he said, one benefit to using NASDA is that NASDA is familiar with North Dakota.

In response to a question from Representative Svedjan, Representative Berg said during the 2003 legislative session, the issue of how the research community is included in economic development was considered.

Representative Kasper suggested that the research community be invited to a future meeting.

After this discussion, **the motion passed on a voice vote.**

Primary Sector Business

Chairman Berg said one of the committee's objectives is to define the term primary sector business. He said he views a primary sector business as a business that has income and wealth from outside the state. He said a primary sector business stimulates the economy and creates jobs. With limited resources, he said, it is necessary for the state to focus on where the state can spend its time and resources most effectively.

Chairman Berg referred committee members to the portion of the memorandum entitled *Business Climate Study - Background Memorandum* that addresses the definition of primary sector business. He stated that the term primary sector business is used and defined in a variety of places in the North Dakota Century Code (NDCC).

Chairman Berg called on Ms. Butts for comments regarding the definition of primary sector business and the economic impact of primary sector businesses on the state's economy. Ms. Butts said the ultimate goal of the Department of Commerce is to improve life in North Dakota. She briefly reviewed the process for applying for Department of Commerce primary sector business incentives. She said the department provides an online application for certification as a primary sector business for loan and equity investments. She said the department evaluates whether an applicant meets the primary sector business requirements. She said the required elements to determine whether an applicant is a primary sector business include a combination of considering the statutory requirements and the department's best understanding of legislative intent.

In response to a question from Representative Kasper regarding his frustration in determining what is a primary sector business, Ms. Butts said the Department of Commerce struggles with determinations of whether businesses such as engineering and consulting firms meet the necessary primary sector business elements.

Chairman Berg called on Mr. Cory Finneman, Department of Commerce, for comments regarding the term primary sector business and the economic impact of primary sector businesses on the state's economy. Mr. Finneman provided written testimony, a copy of which is attached as Appendix C.

Mr. Finneman said the definition of primary sector business in NDCC Section 10-30.5-01 provides primary sector business means "an individual, corporation, limited liability company, partnership, or association which through the employment of knowledge or labor adds value to a product, process, or service that results in the creation of new wealth. The term includes tourism but does not include production agriculture." He said the term primary sector business appears to be a term unique to North Dakota; however, other states use similar terms to determine incentive eligibility.

Mr. Finneman reviewed some of the history of the definition of the term primary sector business. Before July 1, 2001, he said, the Department of Commerce relied on the NDCC Section 10-30.5-01 definition and there was not a single, formal application process applicable to all incentive programs. Following the 2001 legislative session, he said, the department, due in part to legislative changes in incentive qualifications, implemented a new methodology and application process. He said one thing the department did was to collaborate with other agencies to agree upon a common definition and methodology. The department, he said, was successful in obtaining acceptance of the new definition with Job Service North Dakota training programs, the North Dakota Development Fund, the Division of Community Services, and the Division of Economic Development and Finance. Although the Bank of North Dakota collaborated in the department's discussions, because the Bank had recently adjusted Bank policy and printed publications, the Bank of North Dakota did not fully adopt the definition and methodology. He reviewed the uniform application for certification as a primary sector business in the State of North Dakota. A copy of the application form is included with Mr. Finneman's testimony.

Mr. Finneman said the department has attempted to identify and track the number of primary sector businesses and jobs in the state. As a result of meeting with a broad range of state agencies, he said, the department came to the conclusion that there is not an available current source of sales data, specifically sales outside of North Dakota, per company which is required of businesses across the universe of North Dakota businesses. Due to this limitation, he said, the department is put in a position to make assumptions and essentially provide an educated "guesstimate" on the number of primary sector businesses in the state. Although the department has attempted to compile numbers on primary sector businesses in the state, he said, there is quite a spectrum of numbers.

In response to a question from Representative Kasper, Mr. Finneman said the department will need the assistance of the Legislative Assembly in modifying the definition of primary sector businesses in

order to capture the evolving environment of new-age businesses.

In response to a question from Representative Keiser regarding whether the whole approach of using the primary sector definition is flawed, Mr. Finneman replied that there is an ongoing debate regarding the importance of retaining businesses that leave the state. He said that he did not have an answer to whether the Legislative Assembly should change the focus from primary sector businesses to retaining businesses leaving the state. However, at a macro-level policy, he said, there may be value to focusing on economic drivers within each community.

Chairman Berg called on Mr. Lee Peterson, Commissioner, Department of Commerce, for comments regarding the primary sector business study. Mr. Peterson said the simplified answer to Representative Keiser's question is that under the current system the department will continue to focus on primary sector businesses because of the limited resources available to the department. Additionally, he said, because of the perception of unfair competition, the state has expected that the Department of Commerce refrain from incentivizing businesses to stay in the state.

Representative Keiser said he understands Mr. Peterson's position; however, that position does not address the problem of big businesses in the state buying their services from outside the state.

Mr. Peterson said it is impossible to provide incentives to all businesses due to the limited resources available. He said he recognizes the importance of bringing in new businesses such as Alien Technology. He stated that when the department works with nonprimary sector businesses, it is not that the department refuses to offer economic development services, it is just that the services offered may not include business incentives that are limited to primary sector businesses.

Representative Berg said perhaps primary sector business is an inappropriate term. He said all businesses in the state are important as are the jobs that these businesses offer; however, there is a need for the state to focus on the core businesses in the state.

Chairman Berg called on Mr. Gregory Wald, Job Service North Dakota, for comments regarding the definition of primary sector business and the economic impact of primary sector businesses on the state's economy. Mr. Wald reviewed some of the economic development services offered through Job Service North Dakota, including Job Service training funds and Job Service employment statistics.

In response to a question from Representative Berg regarding whether Job Service North Dakota can use the Department of Commerce primary sector business definition in order to provide statistics regarding the number of primary sector businesses in this state, Mr. Wald said the Department of Commerce statistics used by Mr. Finneman are based

on Job Service North Dakota data. He said Job Service North Dakota and the Department of Commerce cooperate in the task of determining primary sector business statistics. Due to the same issues raised by Mr. Finneman, Mr. Wald said, establishing statistics regarding primary sector businesses essentially requires Job Service North Dakota to "cherry pick" what appear to be significant primary sector businesses from within each industry.

In response to a question from Representative Ekstrom, Mr. Wald said Job Service North Dakota is able to identify businesses that are growing and local economic developers are aware of what these businesses are. Job Service North Dakota, he said, focuses services on these growing businesses.

In response to a question from Representative Berg regarding whether the committee can be provided with the names of the businesses that are growing, Mr. Wald said before those names are disclosed to the committee, he will need to determine whether that information is confidential. Mr. Finneman said a significant portion of the Department of Commerce's data is confidential unless it is released in an aggregate form such that a particular business is not identifiable.

Representative Berg said it would be helpful if Job Service North Dakota and the Department of Commerce were to specify how to clarify the definition of primary sector business or other growing business to help track the growth of these businesses over a period of time.

Mr. Wald said at a future meeting he would provide the committee with a set of assumptions and an analysis of how growing businesses could be defined and how to track these businesses.

Representative Kasper said the term "creation of new wealth" is an outdated concept that does not allow for consideration of businesses such as engineering and consulting firms. He said the Legislative Assembly needs to consider focusing on businesses that are growing in this state versus focusing on an outdated definition of primary sector business.

Representative Berg provided a simplified example of why the primary sector business definition was important. He said if a business such as Melroe were placed in the middle of the prairie, that business could succeed; however, if a real estate or banking business were placed in the center of the prairie, that business would likely go broke.

Mr. Wald said there is uncertainty over how to determine at what point an engineering firm becomes a primary sector business. He said the primary sector business determination requires an estimate of at what point the percentage of exported services meets a certain threshold. Therefore, he said, within the same class of businesses, some businesses may meet the primary sector business definition while others do not.

Representative Keiser said the current definition of primary sector business and the percentage of exported services should not be the focus and that is precisely why the current definition of primary sector business is an antiquated concept. Instead, he said, real growth of a business needs to be rewarded.

In response to a question from Representative Onstad, Mr. Wald said in determining whether a business is a primary sector business, it is necessary to look at the geographic boundaries. For example, he said, what may be a primary sector business for a city may not be a primary sector business for a state.

In response to a question from Senator Grindberg, Mr. Peterson said at the state level the state is supporting projects that create new wealth, which is essential to increasing state revenues. He said the definition of primary sector business is legislatively created in an attempt to deal with limited resources.

Representative Kasper challenged the premise of the need to create new wealth. He said engineering firms create revenue from income taxes, property taxes, and the purchase of services. He said that it does not matter whether wealth is generated from within the state or outside the state.

Mr. Peterson said that in the example of an engineering firm, the firm's growth within the state is often at the expense of other engineering firms. Therefore, he said, to provide incentives to a business such as an engineering firm would result in uneven competition or favoritism.

Representative Berg requested that information regarding primary sector business definitions from Job Service North Dakota and the Department of Commerce be provided directly to committee members.

Business Climate Index

Chairman Berg called on Mr. Maclver for comments regarding the creation of a primary sector business climate index. Mr. Maclver said the goal of the Legislative Assembly should be to create a stable environment, which will result and support a healthy business environment. During the 2003 legislative session, he said, triple-digit increases in unemployment insurance premiums created instability and had a negative impact on the business environment; however, corporate tax decreases positively affected the business environment.

Mr. Maclver said state and federal insurance issues also impact the business environment in the state. For example, he said, if a business enters a contract with the state, issues regarding indemnity can be troublesome. He said other factors that can impact the business environment include workers' compensation rates, workforce availability, the health of the transportation system, and water issues. He stated that water issues range from the loss of water supplies such as what is being experienced at the

Standing Rock Indian Reservation to excess water such as the flooding of Devils Lake.

Mr. Maclver said additional areas through which the business environment of the state can be improved include funding of intellectual assets and addressing the proposed constitutional initiative to amend the state's constitutional tax provisions.

In response to a question from Senator Syverson, Mr. Maclver said there is a lack of entry-level workers in the workforce. He said problems with the workforce range from the lack of basic entry-level skills to a workforce that is over qualified for entry-level positions. He said the secondary education system could help to address this workforce issue by increasing workforce training programs. He said although he is not personally aware of any businesses failing to locate in North Dakota due to water issues, developers have voiced this concern to GNDA.

In response to a question from Representative Svedjan, Mr. Maclver said small startup companies in the high-tech industries have a special need for venture capital.

In response to a question from Representative Kasper, Mr. Maclver said the market is driving wages up because of the lack of entry-level workers.

In response to a question from Senator Espeguard, Mr. Maclver said the new economy initiative is in the process of doing a kickoff for a \$357,000 grant received from the federal government. He said this grant money will be used to implement the initiatives and programs of the new economy initiative.

Representative Keiser said it is important to distinguish between love money and venture capital. He said he perceives there to be plenty of venture capital in the state; however, businesses are unwilling to give up control of their businesses to get this venture capital.

Senator Espeguard said in addition to distinguishing between love money and venture capital, the Legislative Assembly needs to focus on increasing the number of investment deals and increasing deal flow.

Chairman Berg called on Mr. Finneman for comments regarding creation of a business climate index. Mr. Finneman reviewed his written testimony. Mr. Finneman said the reason for the disparity between the variety of business climate indexes is multifold, including:

1. Reports are often released by nonprofit special interest groups with an agenda that is often reflected in that group's factors or rankings.
2. Nonprofit special interest groups often use factors and methodology that is difficult to understand or is simply not entirely revealed.

Mr. Finneman said that as can be expected, within the large spectrum of indexes, some indexes are favorable to the state while others are not. He said another issue to consider in comparing business climate indexes is that because there are virtually

50 different tax systems in the United States, it is difficult to compare states to each other. He said although it is very important to continue to look for improvements that can be made to North Dakota's business climate, the department asks that the Legislative Assembly be very cautious in using and evaluating rankings and indexes in a surface level. He stated that it is much more calculated to look at a real business scenario and how the factors apply to that specific business. He said North Dakota policy-makers have done an excellent job of strategically creating a strong business climate; however, it is necessary to communicate and market this positive business climate.

In response to a question from Representative Keiser, Mr. Finneman said in reviewing different businesses' indexes, it is necessary not only to delve into the methodology used in creating the index, but to apply the rankings to the industries on which the state has placed a focus. He said typically when a company looks at locating within the state a third-party index is not the basis for site location.

Representative Berg said it might be helpful to look at some of the businesses that have moved into this state in the last couple years to find out what factors were important in determining site location.

Chairman Berg called on Mr. John Halvorson, Workforce Safety and Insurance, for comments regarding the primary sector business climate index. Mr. Halvorson distributed a handout entitled *2002 Oregon Workers' Compensation Premium Rate Ranking* and a 2001 North Dakota workers' compensation benefits comparison, copies of which are on file in the Legislative Council office. Mr. Halvorson said under the 2002 Oregon state premium rate ranking, North Dakota was ranked as having the lowest premium rate in the nation; however, under the ranking compiled by North Dakota's Workforce Safety and Insurance, North Dakota ranks 20th in the nation. He said the critical issue in rate ranking workers' compensation is to consider what the states are paying to injured workers.

In response to a question from Representative Berg, Mr. Halvorson said changing the state's method of using average weekly wage would likely not impact the Oregon or the small business survival index ranking of North Dakota.

Chairman Berg called on Mr. Rick Clayburgh, Tax Commissioner, for comments regarding creation of a primary sector business climate index. Mr. Clayburgh said the broad range of business climate indexes frequently misreflect the North Dakota tax system. If the Legislative Assembly is looking to improve the tax climate in the state, he said, it may be helpful to consider changing the state's two tax forms. He said the Tax Department is very active in site location when a business is looking at locating in the state.

Chairman Berg encouraged committee members to review the background memorandum prepared by the Legislative Council staff and the broad range of

example business climate indexes that have been provided to the committee members and consider how to address this issue.

Indian Tribe Business Partnerships

Chairman Berg called on Dr. David M. Gipp, President, United Tribes Technical College. Dr. Gipp welcomed the Economic Development Committee to United Tribes Technical College. He said this is the first time a legislative committee has held a meeting at the college. He provided background on United Tribes Technical College, stating that the college is owned by the five North Dakota Indian tribes, was created in 1968, and is a joint state-tribal creation. He said the college creates job opportunities for American Indians and non-Indians alike. He stated that in addition to recognizing the college's success in postgraduation placement, he is proud to announce that the college is the first tribal college to be accredited for online degrees.

Dr. Gipp said not only is United Tribes Technical College growing but the American Indian population is growing. He said that educating the American Indian workforce and keeping American Indian students in the state following graduation is critical.

Chairman Berg applauded the growth of United Tribes Technical College and the success the college has experienced. He also thanked Dr. Gipp for the use of the college facilities.

Mr. Artley Skenandore, Oneida, Wisconsin, said an opening prayer.

Mr. Luger distributed a copy of the *United Tribes on Campus News* dated November 24, 2003. He brought to the attention of the committee the article in this newspaper regarding the death of Mr. Sheldon R. Hawk Eagle of the Sheyenne River Sioux Tribe, who died serving his country in Iraq. Mr. Luger said a large number of members of the five tribes in the state are active servicemembers in Iraq and Afghanistan.

Mr. Luger welcomed representatives of North Dakota Indian tribes who have joined the committee members at the committee table, including Mr. Tex Hall, Chairman of the Mandan, Hidatsa, and Arikara Nation; Mr. Valentino White, Sr., Chairman of the Spirit Lake Nation; and representatives of the Turtle Mountain Band of Chippewa. He recognized the importance of the committee's charge under House Bill No. 1504, specifically the importance of creating jobs and helping to partner the businesses of North Dakota with the American Indian tribes' businesses.

Chairman Berg called on Mr. Skenandore for his comments regarding the successes of minority businesses in Wisconsin. Mr. Skenandore said the federal Small Business Administration HUBZone Empowerment Contracting Program is available to certain businesses locating within the boundaries of Indian reservations. He said in order to be successful in Small Business Administration 8(a) business development and HUBZone business development, it is

necessary to tend to and maintain relationships. He said the five points necessary for success include encouragement to learn, good minds, seeking out good words, unconditional relationships, and strength of vision.

Mr. Skenandore said the encourage-to-learn requirement includes "learning to learn" such as the need to research component parts and the requirement of "learning to do" includes learning what needs to be done to implement plans. He said the requirement for good words includes words such as sovereignty, opportunity, relationship, and partnership. The unconditional relationship requirement, he said, includes being accepting of disagreements, and agreeing to keep working at a relationship. For example, he said, regardless of the relationship the state may have with the tribes, North Dakota will continue to exist and the tribes will continue to exist.

Mr. Skenandore said by creating relationships between Indian tribes across the country the tribes will be able to trade with partners around the world. He said that the Small Business Administration HUBZone program and 8(a) programs offer special opportunities. He said that the Oneida Nation business opportunities were assisted by agreements between the Indian tribe and parties who recognized the tribe's sovereignty.

Mr. Luger stated that North Dakota tribes may be in a position to enter into partnerships with other HUBZones across the country.

In response to a question from Representative Kasper regarding whether all of the North Dakota Indian tribes are committed to improving business relationships through House Bill No. 1504, Mr. Skenandore said that he is not in a position to answer that question; however, it is necessary to have unconditional relationships and find ways to begin the discussion between the Indian tribes and the state.

In response to a question from Representative Svedjan, Mr. Skenandore said his experience in Wisconsin has been that the private sector and the Indian tribes have coordinated on their own; however, there are plans in Wisconsin to assist this coordination with the help of the Department of Commerce.

Mr. Luger discussed casino gaming in North Dakota and how some of the largest recipients of gaming money include the communities of Fargo, Bismarck, Grand Forks, and Minot. He said as a result of North Dakota casinos over \$40 million was spent in the state last year. He said the Indian tribes and the state have broad business opportunities with the upcoming Lewis and Clark Bicentennial.

Chairman Berg called on Mr. Hall, Mandan, Hidatsa, and Arikara Nation, recognizing that Mr. Hall was recently reelected as head of the National Congress of American Indians. Mr. Hall introduced the members of the Mandan, Hidatsa, and Arikara Nation Tribal Business Council--Mr. Mervin

Packineau, Vice Chairman; Mr. Marcus Wells, Jr., Tribal Treasurer; and Mr. Richard Mayer, Chief Executive Officer. Mr. Hall said that all of the Indian tribes in North Dakota have economic development plans.

Mr. Hall explained how MHA Enterprises has become an umbrella agency which includes the Fort Berthold Development Corporation, Twin Buttes Custom Homes, Mandaree Solid Surfacing, and Elbow Woods Works.

Chairman Berg called on Mr. Esley Thorton, Jr., Fort Berthold Development Corporation, for comments regarding Indian tribe business partnerships. Mr. Thorton said the Fort Berthold Development Corporation is a tribally owned 8(a) corporation. He reviewed an expansive list of federal procurement business accomplishments of the corporation.

In response to a question from Representative Svedjan, Mr. Thorton said the Fort Berthold Development Corporation is a tribally owned business, which under the 8(a) program is allowed to team up with nontribally owned businesses to provide services. He said in the case of the Fort Berthold Development Corporation, the business has managers who oversee projects; however, the participation of tribal members in performing the business's work varies based upon the specific skills required for each project.

In response to a question from Representative Onstad, Mr. Thorton said the Fort Berthold Development Corporation performs 8(a) government contracts as well as nongovernmental work.

In response to a question from Representative Berg, Mr. Thorton said although the 8(a) program provides that a business shall apply for a business code classification, such as being classified as a construction business, that business can participate in a variety of industries. Additionally, if an 8(a) business is designated under a specific industry code, he said, that business can still partner with an appropriate mentor business to expand the scope of what kind of services the original business can provide.

In response to a question from Representative Kasper, Mr. Thorton said there is an opportunity to have 8(a) tribal businesses work with new or startup nontribal businesses.

In response to a question from Representative Kasper, Mr. Hall said there are significant business opportunities for North Dakota businesses through partnerships with tribally owned 8(a) businesses. Additionally, he said, these partnerships are an opportunity for the tribes to address and resolve some of the economic problems that exist on the reservations.

In response to a question from Representative Keiser, Mr. Hall said the process of submitting bids under the 8(a) procurement process is complex.

In response to a question from Representative Svedjan, Mr. Hall said in looking at how the tribally owned businesses can partner with private businesses, one thing the federal government considers is

the history of the tribal business. Therefore, Mr. Hall said, there is a benefit to helping private businesses establish partnerships with the tribally owned businesses early in the process.

In response to a question from Senator Espegard, Mr. Thorton said if a federal contract is a sole-source contract, there is no competition for that portion of the contract.

Representative Berg said the opportunities under the 8(a) program are huge. As part of the Primary Sector Business Congress meetings to be held across the state, he said, he would like to include participants from 8(a) businesses.

Representative Berg said if the state and the Indian tribes are able to partner together to get federal contracts, both the state and the Indian tribes will win. Mr. Hall said the tribes in the state need to be united.

Chairman Berg called on Mr. Packineau for comments regarding the Indian tribe business partnership study. Mr. Packineau said although there are barriers and obstacles present in the 8(a) program, sole-sourcing is a fantastic benefit. He said that as long as the businesses' contractors are qualified and within the price guidelines, sole-sourcing bids can work. He said that it is unfortunate that the United States Department of Agriculture in North Dakota does not participate in sole-sourcing contracts.

Mr. Hall said House Bill No. 1504 is an exciting opportunity for Indian tribes and private businesses in North Dakota. He said there are enormous mentoring opportunities to be had under the 8(a) program. Mr. Hall said MHA Enterprises is looking for North Dakota partners and unity is important. Additionally, he said, for purposes of paying for a consultant with the business climate study, \$25,000 may not be adequate and stressed the importance of including the rural communities in these meetings.

In response to a question from Senator Dever, Mr. Hall said the 8(a) business opportunities have had a large impact on the Mandan, Hidatsa, and Arikara Nation. Additionally, he said, as MHA Enterprises establishes a good working relationship with federal agencies, these agencies will establish a strong working relationship of respect with MHA Enterprises.

Senator Dennis Bercier said although the 8(a) program does not have this requirement, it is important to tie jobs to the Indian reservations in order to help alleviate the high unemployment on the Indian reservations.

Chairman Berg called on Mr. White for comments regarding the business climate study. Mr. White said Sioux Manufacturing Corporation, located at Fort Totten, is an example of a minority-owned business that has been successful. He asked the committee to work together to address Devils Lake flooding issues. He said he is opposed to the west side outlet in Devils Lake.

Dr. Gipp said each tribal college is prepared to do its part in furthering economic development. United Tribes Technical College, he said, actively does economic impact studies of the college.

Mr. Hall offered to help host future committee meetings to pursue economic development in west central North Dakota.

Mr. Luger said each of the Indian tribes present have extended offers to host future meetings of the Economic Development Committee. He said it will be necessary for future meetings to look at the details of how the state and the Indian tribes can form partnerships.

Mr. Skenandore ended the meeting with a prayer.

Chairman Berg thanked Mr. Luger for his assistance in organizing this meeting, he thanked the college for the luncheon prepared by the culinary students and for the generosity of the college in hosting the meeting, and he thanked the tribal representatives for their involvement at this meeting.

No further business appearing, Chairman Berg adjourned the meeting at 3:45 p.m.

Jennifer S. N. Clark
Committee Counsel

ATTACH:3